

MEMORANDUM
City Council Agenda Item

FROM: William Needelman
DATE: December 7, 2018
SUBJECT: **Order 119-18/19 Approving 180-Day Moratorium on Non-Marine Use Expansion in the Waterfront Central Zone - Sponsored by Jon P. Jennings, City Manager.**
SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st Reading 12/17/2018 **Final Action 12/17/2018**

Can action be taken at a later date: No

Negative impacts on commerce (particularly the marine industry) and overburdening of City facilities in the WCZ as a result of fast-paced non-marine development have resulted in an emergency that needs to be addressed. Although this can be adopted as a two-read item on January 7, 2019, staff recommend the second reading be waived and it be enacted as an emergency to become effective on December 17, 2018.

PRESENTATION: City Manager Jon P. Jennings will provide a brief summary introduction. Planning and Economic Development staff will be available to answer questions.

I. SUMMARY

In response to a citizen-initiated petition aimed at addressing development pressures in the WCZ that have overburdened City facilities and adversely impacted marine uses in that zone, City staff has worked with members of the fishing community and Central Waterfront pier owners to outline a proposed moratorium on non-marine development in order to pause additional development while the City and community stakeholders work cooperatively to develop strategies for mitigating those impacts. Those strategies may include proposed land use amendments, a permitting scheme to address transportation and parking issues, a plan for use of TIF Funds, a plan to meet commercial berthing needs, and enforcement of existing city code.

II. AGENDA DESCRIPTION

Responding to concerns brought forward from members of the Portland Harbor fishing community, the City Council is asked to enact a moratorium on all construction of new non-marine structures and expansion of non-marine use. The moratorium is intended to be effective as of December 17, 2018 (date of First Reading) and should be enacted as an emergency order. As drafted, the moratorium will be in effect for 180 days, unless extended by Council order.

During the period of this moratorium the City shall not accept applications for building permit, site plan, and subdivision applications, conditional use applications, contract zone or conditional rezoning requests, zoning text amendment and/or development applications for any new non-marine structure or expansion of a non-marine use in the WCZ . Applications already received shall not be processed unless substantive review has been undertaken prior to the effective date of this moratorium. The only exceptions shall be for immediate threats to public safety as determined by the Director of Permitting & Inspections.

During the term of the moratorium, the City Manager has committed to facilitating the following process in

order to address the concerns that have given rise to the proposed moratorium:

1. Zoning: Interested parties will be invited to collaborate on an evaluation of the current Waterfront Central Zone text and provide recommendations to the Portland Planning Board for amendments, if deemed warranted.
2. Transportation: Interested parties will be invited to participate in and inform the on-going Commercial Street Operations and Master Plan process. City staff from Planning, Economic Development, and Public Works will continue to guide the study consultants to respect the marine use priority of the corridor consistent with the Comprehensive Plan and as described in the study scope of services. Commercial Street stakeholders will be notified of all relevant meetings and will be invited to have a formative role in the generation of ideas for evaluation and the recommendation of alternative solutions for implementation.
3. Tax Increment Financing -TIF: The City Manager will create a Waterfront Tax Increment Financing Task Force with representation from the fishing community, waterfront property owners, and others to recommend use of TIF revenues consistent with the waterfront focus of the Waterfront TIF District.
4. Berthing: The City Economic Development Department will monitor commercial berthing opportunities in Portland Harbor. If Commercial berthing demand cannot be met by existing private and public supply, the Economic Development Department will report such conditions to the City Council and advocate for an expansion of berthing for commercial fishing on both public and private facilities, including the Portland Fish Pier. The City will also explore financing options to create such berthing, if needed.
5. Enforcement: Existing ordinances limiting or prohibiting expansions of commercial parking for offsite, non-marine use within the Waterfront Central Zone will remain in effect. Any violations will be investigated and enforcement action undertaken as appropriate.
6. The City will reexamine issues of wharf access, and opportunities for loading and off-loading gear and product, and areas to work on gear, at private and public spaces, including the Fish Pier.

Staff is requesting that the second read of this two-read item be waived, and that it be passed as an emergency. If the second read is waived by a vote of seven or more, seven affirmative votes are required for passage as an emergency, following public comment.

III. BACKGROUND

In 2010, the City Council enacted sweeping amendments to the text of the Waterfront Central Zone (WCZ) which permitted an expansion of non-marine development in the zone. The intent of the amendments was to expand opportunities for investment in piers and waterfront property in a manner compatible with marine use and beneficial to marine infrastructure. Approved during the depth of the recession, the changes created little impact during the early years of their enactment. During recent years, a boom development cycle has increased the pace of change within the WCZ, and more significantly, in downtown zones adjacent.

The impacts of that development include a significant overburdening of City facilities (roads, parking, sidewalks, and waterfront resources). In addition, fishing community members, experiencing increasing competition for limited space, have approached City staff with development related concerns several times over the last 18 months. Such meetings have resulted in the initiation of the Commercial Street Operations and

Master Plan, expansion of parking opportunities on the Portland Fish Pier, and contributed to the call to expand the Waterfront TIF program. Development pressures, however, continue to rate as the primary worry of the most vocal activists in the fishing community. According to them, that pressure is posing a real threat to the marine industry and to Portland's working waterfront.

A large-scale hotel development proposal on Fishermen's Wharf has heightened concern among fishermen and longtime waterfront activists. Community concern regarding the overburdening of City facilities, waterfront resources and the displacement of marine uses has led to a citizens' initiative which proposes to roll back the WCZ text to reflect the highly restrictive zone of the late 1980's. In an effort to affirmatively address the City and the citizens' shared concerns, the proposed moratorium aims to temporarily halt any further non-marine development in order to allow the City, the fishing industry, waterfront property owners, and other interested parties to work collaboratively and deliberately to develop and propose changes to the existing regulatory framework in the WCZ to alleviate traffic congestion, parking shortages, and other concerns.

Although the pending citizens' initiative aims to address some of these concerns, staff's expectation and intent in proposing this moratorium is that by allowing additional time and opportunity for deliberative and cooperative work, a more thoughtful, balanced and forward-looking solution can be achieved. Staff's understanding is that members of the fishing industry and waterfront activists are in favor of this approach. Representatives of those groups have committed to undertaking this work in cooperation with the City and the larger community and expressed their intent to withdraw the petition in favor of this cooperative effort.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

If passed, the moratorium provides the space for a legitimate, iterative process that will benefit from public input, the recommendation of the Planning Board, and the contribution of City Council.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

While moratoriums are never ideal, the WCZ moratorium is necessary to address an emergent overburdening of City facilities and a threat to waterfront resources and the marine industry in Portland.

VII. RECOMMENDATION

The proposed moratorium is recommended by the City Manager, Economic Development Department, and Planning and Urban Development Department.

VIII. LIST ATTACHMENTS

1. Order Approving 180-day Moratorium on Waterfront 12.17.2018

Prepared by:

William Needelman

Date: 12/07/2018